Supreme Court, U.S.
FILED
MAY 21 1987
JOSEPH F. SPANIOL, JR.
CLERK

86 1873

No.

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1986

GREGORY JONES, BY AND THROUGH
HIS NEXT FRIEND, LARRY JONES,

Petitioner,

v.

UNIVERSITY INTERSCHOLASTIC LEAGUE, ET. AL.,

Respondents.

PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME COURT OF TEXAS

APPENDIX II

DISTRICT 9AAAAA EXECUTIVE COMMITTEE MEETING("TR");
POTEET STATEMENT OF FACTS ("PSF");
UIL CONSTITUTION AND CONTEST RULES
(Section 118 and Rule 409)

DISTRICT 9AAAAA
EXECUTIVE COMMITTEE MEETING
August 9, 1985

"TR"

Q You did a little investigation of this yourself, didn't you?

A Yes, sir. And our Athletic Director did too.

Q Who did you talk to?

A Well, I just talked with him and to anybody that I knew. Some of the other coaches. Let me say this: When Greg was going to make a change, Mrs. Jones came to me first, and she explained that they both had jobs in Dallas; they had a son in dental school, and that they felt like it was best to move.

And I talked to the coach at Highland Park, Coach Beavers, and I was certain that they had done nothing to try to recruit Greg -- I mean, in my mind, I felt there was nothing.

Q Did Mrs. --

THE REPORTER: I felt that what?

THE WITNESS: Later -- I felt there was no indication of any recruiting at all.

Of course, Coach Beavers is a good friend of mine, and the first team that we lined up to play this fall will be Highladn Park, and there is no way in the world that I was going to let Greg go over there if I could keep him from it, to be real honest, because they have got enough over there

that we have to fight without Greg Jones being over there; but I didn't think I could be unfair to Greg Jones, and that is why I signed this release.

Like I said, later -- oh, two or three days later, Mr. Jones came in, and he sat down in my office, and we talked a good while, and it was just like he said: Greg was in my chemistry class, Greg is a good student, Greg is -- he is one of the finest young men that we have at MacArthur High School morally and in every other way.

He was one that we wanted to keep in our program and I would have loved to have had him.

In my mind, like I said, I don't

think that they -- they didn't move for Greg to participate there. I think that had he been assured that he was going to be the starter at MacArthur last year, they would gone through an awful lot of hardship to keep him there, and that is why I signed the release and I couldn't -- I couldn't do it any other way unless there was a lot of other evidence.

Q (By Mr. Nolan) Now, the point I want to get across is: You did some investigating? You talked to Mr. and Mrs. Jones.

A Both of them.

Q Okay. And did you talk to anybody else?

A To some of the coaches that had been in the system, you know, the junior high coaches, and others, I just -- I just visited with them more in the terms to try to get the things to come out.

I just told that Greg was leaving, and was going there, and they expressed the same feeling that I had. They hated to see Greg leave, but no one indicated that there was anything wrong, of any problem.

Q Did Highladn Park have a good football team last year?

A Highland Park went to the semi-

finals last year; had an excellent football team.

Q Was their quarterback a senior?

A Yes sir.

Q Is he playing at SMU

A He was going to play --

Q Assuming SMU is going to play.

A -- in the high school all star game.

MR. NOLAN: I think that's all the questions I have.

in doing things, are going to make this a better place for us to live in. Those are the -- our athletes and people like this are going to be more the type people that are going to be the leaders of this world.

And we just had an opportunity to work with an awful good group of young people.

A Coach, are you aware of a single situation where you approved one of those forms in the past of any athlete in any sport where it has been rejected?

A No, sir.

MR. BOYD: I think that's all I have.

MR. JOHN CAMPBELL: John Campbell. Initially, the senior eligibility rule was for the youngsters where there were

hardships.

THE WITNESS: Yes, sir.

MR. JOHN CAMPBELL: Where the home had to change its residence.

THE WITNESS: Yes.

MR. JOHN CAMPBELL: Usually, that would be from one locale in the state to another state, or to another locale far removed from where they were living at.

THE WITNESS: During the junior year where they were playing.

MR. JOHN CAMPBELL: There is a question in some people's mind if a youngster is just changing a residence across town in the Metroplex area, if the move was absolutely essential.

Did this cross your mind, Coach, when a youngster was just moving, we'll say 12 miles -- 10 miles from his --

THE WITNESS: Well, to be real honest, It didn't, in the fact that both Mr. Jones and Mrs. Jones had explained the fact that they had to have three different cars going three difference directions each day.

I'm aware -- I -- of course, I started out when you had to lay out

a year when you moved, and so many of these rules have been brought in because of the parents, like a preacher, or a fellow who works for a big business, and they transfer him, and he has no choice over what he is going to do; and these were why the rules, as I understand it, were put in, and I -- I guess my main concern, when I think about them, is the fact that is a school is trying to recruit sthletes, and -- like I said, in the first

place, I didn't think that Frank, being a good friend of mine, would do that.

And I would like to say this: That the minute Greg checked into Highland Park, I had a phone call that day from Frank Beavers. He wanted to know, now, -- he said, "Now, Ray, is everything all right?" He said, "If it is not, if there's anything that has occurred that is bad," says, "we will not permit him to play."

This is what Frank told me that day and so I, because of our friendship, and because of what he said, I didn't think there was any recruiting. Now, the rest of it, Mr. Jones --

THE REPORTER: You didn't think what?

THE WITNESS: I didn't think there was any recruiting. I didn't think there was anything in the recruiting, and I think Mr. Jones has explained how he felt about the move, and this is what he told me, and his wife told me that two separate times.

MR. JOHN CAMPBELL: You said that Greg is a real fine athlete. He looks like one.

Is there any question in your mind that

he would be able to be a participating member of the Highland Park Scots?

THE WITNESS: No, sir, there is no questions in my mind. I'm not coaching there, but if I were, he would be a part of it.

MR. PRICE: Bob Price.

THE WITNESS: Yes, sir.

MR. PRICE: I am not real clear on at what point -- there was a time

(counseled)
that you cancelled (sic) as a HeadCoach at Irving MacArthur High School with Greg or his parents about his future for this coming football season?

THE WITNESS: No, sir.

MR. PRICE: No one asked you did he ever have a chance to play -- was he going to play?

THE WITNESS: No, sir. The only -- I guess I talked with the Joneses a lot more before Greg started football than I did after that.

The only time that I talked to either one of them about Greg's playing was when we had our first

inter-sch -- interschool scrimmage,
she asked, "Do you give the

Overton mentioned that as well, to participate in something, it helps.

MR. JONES: Right.

MS. DRAKE: It makes the student more well rounded, and especially with it being Greg's senior year. Are you not concerned about the fact that there is a possibility that he could be limited to what he could participate in?

MR. JONES: Yes, ma'am. That was one of the considerations also. You know, we did not know what was ahead in Highland Park. We had to make our decision based on what we felt was good for the whole family, considering all of the factors that we felt pertinent.

MR. WHITE: I have two

questions. Charlie White, South. Number one, you had no contact with anybody from Highland Park, either coaches or patrons. Did you have any contact with the patrons from Highland Park concerning your move over there?

MR. JONES: No, sir. I know a person in Highland Park and about -- after we had decided, I called him maybe a week before

we move, and I said -- he had moved to Highland Park three or four years ago. He had children in school. I said, "Given the opportunity to come over to Highland Park, what is your opinion of doing such a thing?" And he said, "If you can come over, we've got a good school system." And he said, "Fine kids. We've got our problems like every other school system, but it's a good place to live, good atmosphere, and they are achievers here, and the academics are among the best you can find."

And with Greg's academic record, we were concerned about it, and that is not to say other schools don't have good academics, but MacArthur is good, and Highland Park has a

good reputation academically and that I considered also.

Now, I didn't go around, you know: Hey, he's going to be quarterback; hey, you know, -- our contract with Highland Park prior to the move was that meeting, and that was it; no coaches, or no contact. I have not -- that is the only person that I had contacted in Highland Park other than, of

A. Yes, sir.

Q And during that phone conversation, I believe he asked you if there was any quarterback controversy, for lack of a better term, surrounding Greg Jones. And would you simply relate to the Committee what you related to Charlie Qualls about whether there was any quarterback controversy surrounding Greg Jones?

A Well, I don't know whether you would call it controversy. You could call it competition. We had Greg, and Sean Hall, our two junior quarterbacks, and they had been competing against each other since they were in junionr high school, what I'm told. Now, this is hearsay on my part because I just moved there after Greg was in high school, and so they had been competing against each other for a long time.

And I think they have had real tough battles with each other, but the two young men, they get along fine. They have had no problems except that, I'm sure, each one, I would be disappointed in each one of them if they didn't think they were the best; and I doubt -- it was going to make it an awfully hard job for me to choose between them.

Q The -- I just have one more question. In their junior year when they played, who played more at quarterback?

A Sean may have gotten more -- a little more playing time. I don't think that this was a result of ability as much as, like I said, his situation. If we wanted to run, well, we got Sean. If we wanted to throw, we went right quick to Greg. And I think they had different talents, and both were real good students, both were real intelligent young men, and both were winner-type athletes, and that is about all I can tell you.

Q That is all I wanted to know.

MR. JOHN CAMPBELL: John Campbell here. Coach, when you have youngsters competing for starting positions, usually you have one of them that will develop just a little bit more leadership, maybe has a little more backing of the ball club as a whole. Was there any contro-

versy among your players as to who was the best player, or did they just rally around both quarterbacks when they were on the field equally?

THE WITNESS: We had absolutely no problem. All three of the quarterbacks we had were extremely popular with the rest of the team, and the thing about it, they were all three super young people, and they were

POTEET STATEMENT OF FACTS

"PSF"

instance of your attorney not at the request of the Jones family, correct?

A. That's correct.

Q. At this time I'll show you Exhibit Number 5 and -- which is dated August 5th, 1985 on your letterhead and ask you to tell us what that is, sir.

A. Yes. After agreeing that there would be a hearing held with an impartial committee, then I telephoned eachschool informing them of this and told them that they needed to make a selection in such. And my conversation, this was a follow-up letter is to be sure that they had the correct dates and everything when the hearing would be held.

Q. All right sir. And in connection with what you have described as an impartial hearing, the work "impartial" is central to

these kinds of hearing on eligibility, isn't it?

A. Yes, sir, that's true.

Q. And would you agree that if the hearing is not impartial, that someone has not received whatever standards of fairness they're entitled at that hearing?

A. Yes, sir.

Q. Yeah. At this time I will show you Exhibit Number 6

committee made up of superintendents information on these things, right.

Q. Now, the kind of checking you're talking about though is between for instance if you're chairman between Coach Qualls and the schools that are involved, just calling the schools that are involved on the PAP form? Isn't that what you're talking about?

A. Yes, sir, and any other. In other words, they could get any other information. We ask them them to assemble all of the information that they could for us, you know.

Q. Does that include calling up the other schools and talking with them about the facts they have supposedly learned?

A. Oh, yes. And I can even recall them getting letters from parents on previous requests for transfers to document something to have further information. So it's a pro-

cedure they use. It's been used for years and years, the same way every year.

Q. And in fact those parents though that send letters don't vote at the meeting, do they?

A. No, sir.

Q. Okay. What I'm talking about is your representation communicating back and forth with the members that are going to sit at the meeting to vote yes or no on a child's eligibility. Are you telling this Court today that it's common practice for

Q. In making a determination as to whether or not a student should be allowed, a transfer student should be allowed to participate in extracurricular events, whatever that event might be, is it fair to state that you consider that an important, a very important decision given the importance of the training that students receive in extracurricular activities?

A. Yes, sir, it's important.

Q. Have you been aware of Coach Johnson's statement that in over 37 years he cannot recall when the sending and receiving schools approve a transfer student that it was rejected?

A. No, sir, I do not know, but I know 27 of those 37 we didn't even have to act on such a thing, so that would have been discounted, but we didn't even have to act on

transfer probably it's just been the last 10 years or less that we've had to be concerned with transfers. Prior to that there was no such things as transfers. So, 27 of the 37 years he wouldn't have been acting on them; wouldn't have been any occasion to.

Q. Why would he, if you know, why would he have told us that in 37 years he had never seen this occur?

A. I don't know, I cannot speak for him

Q. So, your testimony to the Court is generally that these previous athletic participation forms or PAP forms for short have really been in use about the last ten years, is that correct?

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A. I cannot recall the exact number of years, but it's been in recent times. When you talk about my career like of 38 years, it's been very recent times. AS he stated, his 37 years, it's been very recent that we're talking about.

Q. Now, in connection with providing students the ability, transfer students the ability to participate in extracurricular activities, isn't it fair to state that of the hundreds that you considered over the past ten years in district 9 AAAAA that Greg Jones is probably the only one you can remember having to be challenged with putting on an evidentiary hearing when both the sending and receiving schools have approved the transfer?

A. Yes, sir, that's correct.

Q. And out of the hundreds and hundreds

of transfer students which have been approved, isn't it fair to state that generally those requests are approved as a matter of routine?

A. Well, not of routine. Each one is presented individually and information is given on each one individually as it's presented.

Q. Okay. But generally those things are approved without a lot of discussion, haven't they?

A. In some cases, but some cases there have been discussions. There are some cases we've delayed on approving till additional information is acquired, right.

Q. Now, in fact, as far as sending and receiving schools

approving a transfer student's eligibility, other than Greg Jones in district 9 AAAAA, you can't really think of another individual in this district that's been denied eligibility with both sending and receiving schools approving it, have you? Can you?

A. That's correct.

Q. At the time of Greg Jones' initial consideration in March you were aware that he was wanting to play football in the fall for Highland Park, were you not, the fall of this year?

A. Yes, sir.

Q. And you were aware that he had apparently been a quarterback at his previous school, correct?

A. Yes, sir.

Q. Before going into the meeting in March of 1985 and other than knowing that he

had been a quarterback and that he wanted to try out for the Highland Park football team, did you have any knowledge, I mean had anybody given you any facts about the extent of this participation at Irving McArthur or his success rate at Irving McArthur, did you have any of that information?

A. Not any of the details, no, sir.

Q. What kind of generalities did you at that time believe would characterize his performance as a quarterback at Irving McArthur before you went into the March 20 meeting the same day?

A. I do not know.

Committee, did you take one minute to pick up the telephone and call the Joneses and tell them that there was some concern about their application, and if they wanted to be at the meeting where a vote was going to be taken, that they would have the right to be there? Did you do that?

A. No, sir, I had no idea how the other members would feel whether there was any concern or not. It would have been just my personal feeling I felt that would be the committee's decision.

Q. The answer is then you didn't take 60 seconds and dial the telephone number and tell the Joneses there to be at the meeting?

A. Did not take the time to call anybody?

Q. In fact, the date of the meeting March 20th, whatever it was, 1985, no one at that Executive Committee meeting, no one had

ever talked with the Joneses or their child, isn't that correct, as far as you know?

A. To my knowledge, right.

Q. That might have been a pretty good source of information, don't you think in this kind of hearing?

A. This was a district meeting. This was not a hearing, this was a district meeting.

MR. NOLAN: Excuse me, your Honor, is there -- I thought we were going to discuss this second hearing as to what was presented and what the procedure were and I would like to

Q. Okay. And generally when you conduct your meetings you try to conduct them in accordance with the Constitution and Contest Rules of the UIL, is that correct?

A. They're very informal in nature.

Q. But you try to abide by those rules, don't you?

A. We try to be fair in every case.

Q. And in your deposition we went over subchapter "h" of the contest or the Constitution and Contest Rules and didn't you tell me that you try to follow those?

A. Yes, sir I believe in due process when it can be -- yes, sir. This was not a hearing, it was a district meeting.

MR. BOYD: Object to non-responsive, your Honor, the last part.

THE COURT: Sustain your objection.

Let me ask Dr. Poteet. Was it con-

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vened for the purpose of making a decision in regards to a transfer eligibility question, that particular meeting of March 20th?

THE WITNESS: Yes, sir, it was for the purpose to review that request and it had been made at Highland Park's request, yes

THE COURT: And one of the operations would be -- didn't have to be, but could be to render a decision?

THE WITNESS: Could be, yes, sir, it was not necessary. We recognized it was six months away from football season, so, you know, the committee could have chosen to

CROSS OF DR. POTEET - BY MR. BOYD

Q. And you were award that there might have been some irregularities at that first meeting, weren't you?

A. No, sir, I was not aware that there were any. That was a regular district meeting there was no hearing. We were just offering a full hearing if that was what was desired.

Q. The first District Executive Committee meeting was to vote whether or not to approve the transfer request of Greg Jones, true or false.?

A. To consider.

Q. And there was a vote, correct?

A. There was a vote. But the vote did not have to be taken, it was to be considered.

Q. Right. The vote was taken, correct?

A. Yes, sir.

Q. And if he had been approved he would have been able to try out and participate, do all of the other things the other kids do, correct?

A. Yes, sir.

Q. So it was final in that regard, yes, if it had been approved it would have been final?

A. Yes, sir, it would have.

Q. So you considered at that time at that March 20th meeting a final vote. You decided to have one?

A. The committee did.

Q. Yes, sir. Now, for the Court's benefit, please tell

Judge Whittington if in advance of the meeting on March 20, 1985 you sent out any written notice to the Jones family that on March 20 the request of their son to participate, not necessarily make the team just try out for the team would be considered?

A. No, sir, nothing was sent out.

Q. In fact, you didn't even telephone the family and tell them that their -- give them any notice that their son's transfer request was going to be considered on March 20 and they were invited if they wanted to be there, you didn't do that, did you?

A. No, sir.

Q. And yesterday I asked you if when you knew there were going to be questions raised if you picked up the telephone and took 60 seconds of your time to call the Jones family and ask them to be there and you

said no. You remember that?

A. That's correct, sir.

Q. And at the meeting when you knew there was discussion that was unfavorable to the Jones family, did you think about taking a 30-second break to call the Jones family and say: Mr. Jones, we would sure like for you to come down here. WE didn't tell you we were going to conduct this meeting, but we're in it now and if you would like to present some or answer some questions, we'd appreciate it. Did you do that?

A. No, sir.

Q. That wouldn't have been unreasonable, would it?

A. Sir, it was discussed that he had -- there were six months before football season started and felt that if there was any appeal or anybody wanted to, that there would be sufficient time to do so.

MR. BOYD: Object your Honor, non-responsive to the last portion.

THE COURT: Sustain your objection, the last remarks would be disregarded. Repeat your question.

MR. BOYD: Thank you, your Honor.

Q. Dr Poteet, at the time that you were hearing unfavorable comments, in fact you were even making some.

MR. NOLAN: Your Honor, excuse me. In response to his objection, he asked:

Do you think it was reasonable? He explained to him why it was not reasonable. And the reason was that we have the time to do it at a later time.

MR. BOYD: Whether or not it was unreasonable. That's all I asked.

MR. NOLAN: Yeah, and he explained why. He said no and he explained.

THE COURT: I said repeat the question is what I have said. We will see what it is. He can repeat his answer again, if that's going to be the answer.

MR. NOLAN: Okay.

Q. Dr. Poteet, will you please tell us at the time of the

March 20, 1985 consideration by the District Executive Committee, Greg Jones' eligibility request, and during that meeting when unfavorable comments started coming forward, some from you, do you feel that it would have been unreasonable at that time to have picked up the telephone and call the Jones family and ask them to come down to answer some questions? Do you?

A. It was never expressed that it was necessary for us to do that.

Q. Okay. Do you think it would have been unreasonable to do that?

A. Didn't anybody feel it was necessary to do it at the time.

THE COURT: All right. It is your answer that no one thought it would be reasonable to do that?

THE WITNESS: Didn't anybody

feel, your Honor, that it would be reasonable. Again my answer was in the discussion it was discussed that he had -- there was six months before football season and that if there was an appeal or a hearing we had sufficient time to conduct that. And that --

THE COURT: I know, but you were at the process of making a decision and you were not availing yourself of full information, were you not, at that time?

THE WITNESS: That's correct.

THE COURT: Continue.

decision?

THE WITNESS: I think, your Honor, that, you know, in these situations, we've never had a parent to this day when we've taken any action, you know. Now, later on, whenever somebody did appeal to us then we've had other evidence and such. When we get out of the realm of just transfer, we've acted on eligibility, ineligible players, et cetera, but we have never had anybody present except those that just presented the information to us and then we took our action according to that.

THE COURT: But when you take am action, do you recognize that that creates an event? Do you recognize that?

THE WITNESS: Yes, sir, I do.

THE COURT: And then that an appeal from that event may be entirely dif-

ferent than the original event?

THE WITNESS: Yes, sir.

THE COURT: In other words, there may be different standards apply to the decision at the event and then a different standard applied upon the appeal. Do you recognize that?

THE WITNESS: I recognize there could be, yes, sir.

THE COURT: So therefore at the time of making a decision, do you think it is reasonable to get full information when you make the original decision?

THE WITNESS: Well, yes, sir, it's difficult to

explain, you know, at a district meeting where everything is very informal but I understand, sir. Yes, sir.

THE COURT: But there are steps in processes?

THE WITNESS: I understand that, yes, sir.

THE COURT: All right, continue, please.

Q. Dr. Poteet, yesterday I asked you if you had checked out Coach Qualls' report of what Coach Overton had allegedly told him, the report that he gave during the March 20 meeting. Do you recall that?

A. Yes, sir.

Q. Okay, you recall the report? And then I asked you yesterday if you had personally verified any of the things that Coach Qualls had said at that meeting about Coach

Overton and you said you had not, do you recall that?

A. That's correct, sir.

Q. And so far as you know no one ever verified any of the things that Coach Qualls said at that meeting, the March 20 meeting about Coach Overton's statements?

A. That's correct, sir.

Q. Do you recall Coach Qualls telling the committee that Coach Overton said there had been a strained relationship and bad blood between the Jones family and the coach over playing time of Greg Jones? Do you recall Coach Qualls saying that?

A. I'm not sure those are the exact words that I recall, but that was the theme of it, yes, sir.

Q. They weren't getting along because supposedly tge Greg Jones boy was not getting enough time to play.

A. I don't know that he said they weren't getting along. That there was some conflict, right.

Q. Conflict. How about bad blood, do you recall those words being used?

A. I'm sorry, I do not recall the terms.

Q. And you heard Coach Overton's statement under oath yesterday when it was read that he's always gotten along fine with the boy and his family, didn't you? Did you hear that?

A. Yes, sir.

Q. And that the boy was an honor student and a respected young man at Irving McArthur and everyone in general, did you

hear that?

A. Yes, sir. But Mr. Qualls' repor was not conflict with the coach. It wa conflict of playing.

Q. And you also heard his statemen that he had never talked with the Jone family, and it's in the record, about playin time of Greg Jones. Don't you remember that

A. Correct, yes, sir.

Q. Now, if he had never talked with th family and he liked the boy and the boy wa in his chemistry class and was a respecte young man throughout the High School, wher is the conflict, Dr. Poteet? The rea conflict, if anything?

A. In the playing of quarterback an competition with

Q. No special controversy of two kids of approximately the same skill that are competing for the same position, that's not unusual, is it?

A. No, sir.

Q. When is the last time you recall the District Executive Committee considering transfer eligibility requests, Dr. Poteet?

A. When is the last time I called a district committee?

Q. Any District Executive Committee at which you attended or your representative attended that considered transfer eligibility requests?

A. The last meeting we had was on September 1, 1985.

Q. Between the August 9 hearing before the ad hoc committee and the September 1 meeting were there any other meetings at

which transfer requests were considered?

A. No, sir.

Q. Okay. Is the September 1 meeti the one at which Dr. Power was nominated a elected as the new chairman?

A. Yes, sir.

Q. And at the September 1 meeting you recall there being about 16 requests? or 16 requests?

A. There were several. I would n want to testify as to whether it was -- b it was 10 or 12. 15, right.

Q. And previously except for Gr Jones, a properly completed PAP form h been sufficient to generate approval from

the committee on transfer requests, correct?

A. No, sir, that's not correct.

Q. Previously to this September meeting other than Greg Jones, you're not aware of any other transfer requests in the last ten years since the PAP form has been used where the sending and receiving schools have approved the transfer that the kid has been rejected, correct?

A. That's correct.

Q. Okay. Now, on September 1 you approved some completed PAP forms, didn't you?

A. Yes, sir.

Q. And you approved conditionally some incomplete PAP forms, didn't you?

A. Yes, sir, that's our normal procedure.

Q. And you didn't know whether the

other school was approved or not, you don
know any of the circumstances, but as long
they had it filled in, this committee wa
going to approve those applications, correct

A. No, sir, that is subject to tha
being completed and the information submitte
to us. That saves us from having to cal
another meeting.

Q. Right.

A. That part is done by phone.

Q. You're saying that would have bee
another meeting on these conditional appro
vals after they were filled

in, the committee would then again meet by telephone to determine whether or not they were going to approve them?

A. The district chairman does. We approve then tentative to the paper work being completed, all of the information is given, that's been our normal procedure and that was the same procedure used at this time by the chairman. He didn't have to use that procedure but he choose to do so.

Q. So the procedure being incomplete PAP form and you approve it conditionally?

A. Conditionally, that's correct.

Q. Conditioned on it being filled out?

A. On it being completed and then the information being submitted.

Q. It's then your testimony that each time the chairman receives one of these filled out completed PAP form he calls around

to all of the different representatives to find out if they approve it?

A. Just three calls is all that's necessary. That's the reason we handle it that way.

Q. But there's no evidence taken, no discussion taken in a full executive, is there?

A. The discussion is that at the meeting paper work is not complete. It's conditional to that paper work then that person, the chairman makes the call, submits the additional information right.

Q. But at the committee meeting you've got superintendents or their representatives, you usually have athletic directors, you even have principals often, isn't that correct?

A. Yes, sir.

Q. All of these people are not checked with when you conditional approve a PAP form and then it's filled in later?

A. That student is already at that school. It's just that maybe the sending school has not completed the paper work, but the student is discussed at that time and every thing.

Q. Discussed as -- particularily as to the one that's filled in the paper work, correct?

A. Yes, sir, and also those that are on condition, they were discussed at that time, right.

Q. But you don't know whether they'
going to be approved or not, correct?

A. That's correct, that's when t
chairman makes the call, gives the addition
information.

Q. And that's just a little procedu
you use to make it a little bit easier so y
don't have to get back and meet one the P
form is completed, correct?

A. Yes, sir.

Q. So there's not discussion among t
committee any more, once it's conditional
approved there's no more general committ
discussion??

A. Not as a committee, but on the phone, right.

Q. So, Greg Jones has been denied eligibility with a completed PAP form and others have even been conditionally approved without having it totally filled out, correct?

A. They're never eligible until it is completed and final vote is taken so it may be three weeks in the football season and they don't play those games, so they're still not eligible.

Q. Until they fill it out and get it in, right?

A. Yes, sir, and the vote is taken.

Q. Without an executive committee meeting, correct?

A. Yes, sir.

Q. Coach Qualls reports to you on each of those applications before that meeting?

A. Yes, sir, and to the entire committee.

Q. Okay.

A. As well as the information from the other people present?

Q. Did you understand my question?

A. Yes.

Q. Did Coach Qualls report to you on each of those applications before the meeting?

A. No, sir not proper. Sometimes he does and sometimes he doesn't, right. If he finds there needs to be additional information then he might do so.

Q. At the meeting since he didn't this time on September

1st report to you about each application at the meeting did Coach Qualls make statements on each application?

A. No, sir, I had not received any applications prior to the meeting itself. They were all submitted at the meeting.

Q. So there was no opportunity to even investigate.

A. It was done by the chairman, this chairman did that. I had nothing to do with that.

Q. But there was no investigation of any of them?

A. I had nothing to do with that.

Q. Is that correct, no investigation?

A. The investigation was done by the principals present, the head coaches present, and the athletic directors were all present and they each submit and give their infor-

mation.

Q. But the other schools had not had an opportunity to even know which ones were being presented, correct?

A. Oh that's common, that's correct, right.

Q. Okay. So Coach Qualls hadn't investigated the various applications because he didn't know who was going to be presented, correct?

A. In this case, that's correct, right.

Q. So he doesn't investigate in every case then, does he?

A. Not in every case, that's correct, because you see, there's nothing that says you have to submit them prior to the meeting so they can be submitted at the time of the meeting.

Q. Okay. So that the Court has some idea of how the

executive committee meetings are generally conducted, doesn't the chairman kind of rule and guide what's going on?

A. No, not necessarily in this case, these are all professional people and it was very informal.

Q. You take a leadership role at the meetings that we're taking about now, we would like to have discussion on this child if anybody has any discussion. Is that the extent of it?

A. Yes, we have an agenda and we more or less follow that agenda. There's one item on that agenda: Consider all transfer requests. Usually the principals come forward and present their particular transfer and so forth.

Q. And for the Court, the manner in which you considered the applications that

were submitted just at the meeting on September 1st, that's not unusual. Isn't that correct?

A. That's correct, yes, sir.

Q. So sometimes Coach Qualls has a chance to investigate, sometimes he doesn't, correct?

A. Yes, sir, that's correct.

Q. So it would be stretching things a little bit too far to say that he investigates every application?

A. That's correct because see he wouldn't be investigating these, they were going to be presented at the meeting themselves so the principals and all were present to make their presentations.

Q. All right. Dr. Poteet, would you for the Court

Q. So the witness has an opportunity, Dr. Poteet, that's not in your minutes for that day, are they, the fact that you say you were charged with contacting anybody?

A. That's correct, sir.

Q. Okay. Now, after the meeting when a 7 - 0 vote has been taken did you think it would have been appropriate at that time or do you think it would have been out or the way for you to call Mr. Jones and say: Mr. Jones, the committee has made a decision. Would you like to come give some statements? Maybe we'll change our mind. We've made our mind up. Maybe we'll change it.

Did you take the time to do that?

A. No, sir, I felt that would be done by Highland Park School District.

Q. So the answer is you didn't do it as chairman?

A. That's correct I did not as chairman.

THE COURT: Let's take a 15-minute recess.

(Whereupon a recess was had.)

THE COURT: Let us resume, Ladies and Gentlemen. Will you resume.

MR. BOYD: May it please the Court.

Q. Dr. Poteet, isn't it true that you feel that before the child's eligibility on a transfer request is denied that the parents ought to have a chance to make input? Don't you feel that's true?

participate, correct?

A. That's correct.

Q. Dr. Poteet, do you as a professional educator regard it as important to a child's health where possible where physical mental and moral development that he have as much opportunity as possible to be a part of his family, to participate in familial meals, visiting with family members, and other such family contact, is that an important part of a child's moral and physical mental educational development?

A. Yes, sir.

Q. In fact, the home situation often times is extremely important to the child's development in his educational situation and environment, correct?

A. Yes, sir.

Q. So the better the home environment

is, generally speaking the child should be expected to have a little easier time in school, isn't that correct?

A. Yes, sir.

Q. So it would be fair to state that you are for whatever processes encourgage the family staying together and having more time together?

A. Yes, sir.

Q. Is it fair to state that you don't believe spending excessive amounts of time on freeways here is quality family time?

A. I'm not sure I could address that.

Q. You don't think it's quality family time, do you?

A. I don't guess it would be, no.

Q. It wouldn't be near as nice as sitting down at a dinner table with your parents, brothers and sisters present, would it?

A. Right.

Q. And as a professional educator, don't you think it's important that parents take time to give guidance, visit and be close to their children, even from the educational perspective?

A. Yes, sir.

Q. So it's necessary for proper development as you see it that a child have some time to visit and be with the parents and the other children in the family, correct?

A. Yes.

Q. Would it be fair to state that you think that the family unit is really at the core not only in education but from your professional perspective of our whole society?

A. Yes, sir.

Q. And any interference with the family unity itself should really be manifested by real important concerns like was for instance, you know, war, you might have to draft a member of the family to send them overseas, it should be something important, shouldn't it?

A. Yes, sir.

CROSS OF DR. POTEET - BY MR. BOYD

Q, Do you have any reason to believ that if Greg Jones was eligible for participation in athletics at Highland Park on the one hand and if he could also participate at Irving McArthur on the other hand, do you have any reason to believe that he went to school in Irving McArthur that he would have more family time than he would if he could just drive down the street to Highland Park to his school?

A. I'm sorry I could not address that.

Q. Don't you feel like he could either go from Irving McArthur to where the family lives now or to Highland Park and participate in UIL if he went to school in his own neighborhood. He would be more likely to have more family time, more family exposure and experience than he would if he had to drive a long distance?

A. You would assume that, yes.

Q. You're not against neighborhood schools, are you?

A. No, sir.

Q. There are reasons why some people think those are advantageous, correct?

A. Yes, sir.

Q. Are you one of those people?

A. Yes, sir.

Q. Have you ever been made aware of the church affiliations or the close family ties that exist in the Jones family?

A. No, sir.

Q. If those ties are indeed close you wouldn't want to do anything yourself to interfere with those, would you?

A. Not intentionally.

Q. Dr. Poteet, yesterday the Court read to you subchapter "h" of the Constitution and Contest Rules which you said you try to abide by when you can and I will represent to you, as an officer of the Court that section 106 refers to findings to be based exclusively on evidence. Do you believe that you try to comply with that?

A. That portion, yes.

Q. And section 119 says that the vote should be by impartial members of the executive committee. Do you believe impartial is important?

A. Yes, sir.

Q. A vote by a committee of people that weren't impartial would not be a true valid vote, would it?

A. Right.

THE COURT: Continue, please.

Q. Thank you, your Honor. Section 123 of subchapter "h" discourages ex parte consultations and we talked about the school representative talking about the merits of the case before the meeting actually is commenced and you agreed that you try to abide, should try to abide by ex parte consultations being discouraged, correct?

Q. And what evidence goes one way or the other? I mean can you tell what evidence you used to prove that a move was not for athletic purposes if you're a family.

A. Oh, yes, we approved a lot of transfers, one from Tallahassee, Florida. Very obviously they didn't move for athletic. One is from Mt. Vernon, Texas but then whenever they move from Irving to Highland Park or from Richardson to Garland or from Garland to Mesquite then we take a real close look.

Q. And in this September 1 meeting you had children that transferred within the district, didn't you?

A. Within the district?

Q Yes, sir.

A. Yes, sir.

Q. Yeah. And it didn't cause any kind of ruckus and you didn't have an evidentiary

hearing, did you?

A. No, sir.

Q. Wasn't necessary, was it?

A. No, sir.

Q. What I'm asking you is, what kind of evidence if a family moves from one district to another instead of what we just talked about moving within the district, from one district to another, what kind of evidence demonstrates the intention of the family's move?

A. Well, everything has to be weighed as to looking as to why they possibly did move. If there was a reason for that

move, when you consider a legitimate reason for that move. If there was any type of controversy surrounding that move and so forth.

Q. And those decisions should be made by impartial members on credible evidence, right?

A. Yes, sir.

Q. Not on hearsay.

A. Yes, sir.

Q. On credible evidence.

If a committee decides that a move either was for athletic purposes or not for any athletic purposes, is it fair to state there's no way to really attack that if they've had credible evidence because it's a weighing of all of the factors that just can't be tied down?

A. Try to weigh every thing.

Q. But it's almost impossible to attack one way or the other, isn't it because it's a weighing?

A. You have to weigh everything presented, yes.

Q. So it's important when there are no definite standards in your weighing everything, that credible evidence, correct?

A. Yes, sir.

Q. And it's important to make sure that you've looked out for the rights of the child in those instances, correct?

A. Yes, sir.

Q. Because it is for the children that the UIL has

existed, is that not correct?

A. Yes, sir.

Q. And all of these rules and the constitution and everything have been put together to try to make competition fair, equitable, and available to the children of this state?

A. Yes, sir.

Q. And there'a not a thing that the Constitution and Contest Rules call for that you take any exception with, is there?

A. I might take some personal exceptions to.

Q. But professional, but professionally you don't?

A. They're rules and we abide by them.

Q. Yes. In connection with the March 20, 1985 vote you've already testified, have you not, that there was no notice that went

out to the parents as far as you know?

A. That is correct.

Q. So under section 102 there was no written notice of the date, days, time, place and nature of the hearing to the parents. There was no written notice of the statement of the rules under which the hearing was being held. No statement of a reference to the particular section of the rules involved sent to the parents and there was not a short and plain statement of the matters asserted to the parents, was there?

A. No, sir.

CROSS OF DR. POTEET - BY MR. BOYD

Q. I didn't hear you, Doctor.

A. No, sir.

Q. Section 103 of subchapter "h" says that opportunity should be afforded for all parties to respond and present evidence, argument on all issues. On March 20, 1985 that opportunity wasn't extended, was it?

A. No, sir.

Q. Section 105 talks about a record of evidentiary hearing. And you did take evidence, did you not, at the March 20 hearing, let me ask that.

THE COURT: Hold your answer, please. Mr. Nolan.

MR. NOLAN: Your Honor, if it will save the time, we will stipulate that section 102, 103, 104, 105, 106, 107, 108, 109, 110, 11, 112, 113, 114, 115, that none of the elements of those things were followed

to any great extent.

THE COURT: 102 through ...

MR. NOLAN: Till the end of subchapter "h". That those were not followed to any great extent in this hearing. If they were not followed at all it was not because they were intending, it was simply because they happened. They talked to somebody at the meeting at March the 20th. We've never maintained anything to the contract.

MR. BOYD: Is counsel operating to stipulate through section 123 then on subchapter "h"? I will not take up any more time if they are.

A. No, sir, I'm not aware of that.

Q. Has anybody ever suggested to you, and this goes to anybody that you can identify that's not anonymous, that Greg Jones had a better football future at Highland Park than he did at Irving McArthur where he was a 50-50 shot for the starting position? Has anybody ever told you he had a better potential at Highland Park?

A. No, sir.

Q. Has anybody ever told you or suggested to you that he was going to improve his athletic career by going to Highland Park rather than staying at Irving McArthur?

A. Hasn't nobody told me that, no, sir.

Q. You talked a little earlier with your attorney about how important it is that you follow the rules and regulations, students and administrators, correct?

A. Yes, sir.

Q. So subchapter "h" was alive and well and you were trying to abide by it. Didn't you think the rules ought to be applied, don't you?

A. We really didn't try to abide by it.

Q. Didn't you tell me in your deposition that you tried to apply subchapter "h"?

A. No, sir, we did not try to apply subchapter "h". I was asked if I believed in it and I sad well I might have

meeting. We did not try really to apply it.

Q. When I asked you earlier in this trial if those Constitution and Contest Rules, if you tried to comply with these, do you recall telling me you did?

A. Well, if you specifically refer to those, that were in effect for that one portion of a year, no, we did not. Now, the other rules if you refer to, we tried to, but in no way did we attempt or even mention those particular rules that were in effect for only a short period of time. In fact, I doubt if anybody was even close to being that familiar with them.

Q. Do you recall in your deposition telling me that if the UIL recommended following subchapter "h" that you would try to do so?

A. Yes, right, I do recall. Right, we

were talking the whole context of that was about due process and giving a fair hearing and such, right. But, again, when our meeting was held, those subchapters, those rules were never mentioned, never discussed, and never applied for that specific meeting.

Q. You told me in your deposition, though, that it was recommended that it be followed, number one, and number two --

A. The book recommends it but we didn't, right.

Q. And you told me that you tried to, did you not?

A. Well, if I said I tried to, it was not in the context that we really took those rules and said this is what we're going to follow as far as a hearing, because we didn't, you

know.

Q. Dr. Poteet, do you recall telling me in your deposition that you tried to abide by the rules set forth by the Constitution and Contest Rules which included subchapter "h"?

A. Yes, sir, that's right, right.

Q. And you also said that due process in general you tried to provide people who are submitting applications for eligibilty, did you not?

A. Yes, sir, I did.

Q. That's a standard that you have utilized with the executive committee over time?

A. Yes.

Q. Did anybody at the March 20 or the April 9 district executive meeting --

THE COURT: August 9.

MR. BOYD: Thank you, your Honor.

Q. -- suggest to you in any way, do you remember any person speaking that even suggested that Greg Jones was improving his athletic potential by moving from Irving McArthur to Highland Park High School? Anybody?

A. Well, that was the whole discussion. That was the purpose for the vote. That the move was being made to improve his athletic -- that's what the vote stated.

MR. BOYD: Objection, your Honor, nonresponsive,

THE COURT: Overrule the objection.

RECROSS OF DR. POTEET - BY MR. BOYD

Q. And to make sure the record is clear, you said they would be called on after their decision to affirm that they had no previous information whatsoever in making their decision, is that correct?

A. Yes, sir, that's correct.

Q. Do you remember Mr. Nolan's questions about whether or not you were a lawyer?

A. Right.

Q. Do you remember that. And then he asked you about whether or not you understood what different technical terms were. Do you remember those questions?

A. Right.

Q. The C and CR, the Constitution and Contest Rules are not written for lawyers, are they, they're written for administrators, students, faculty, people in UIL, correct?

A. Yes, sir.

Q. Is there any kind of a condition that you need to be a lawyer to understand this book?

A. No, sir, even though it's rather complex, there are so many rules and regulations, both -- most of them are written where you can understand them.

Q. Before you start the school year, do you ever have to confirm that you read and understand the rules? Do you ever have to do that?

A. No, sir, we don't.

RECROSS OF DR. POTEET - BY MR. BOYD

Q. Is that part of your professional job to do that?

A. Yes, sir.

Q. So as an administrator, you're challenged with the duty of understanding the Constitution and Contest Rules, at least being familiar with them, correct?

A. Yes, sir.

Q. That's part of your job, isn't it?

A. Yes, sir.

Q. If you don't understand something you've got people down in Austin to call, don't you?

A. Yes, sir.

Q. So you wouldn't want the Court to think that you have been less than professional in implementing any of the procedures that are contained in that book, would you?

A. Well, right.

Q. Now, just so the Court is aware, you have approved the transfer of request of other students that have rented in a particular district, haven't you?

A. That have rented?

Q. Sure, the families rent the house.

A. I would suppose so.

Q. There are a lot of districts where people rent, aren't there, even more than own?

A. Yes, sir.

UIL

CONSTITUTION AND CONTEST RULES

Section 118
Rule 409

Section 118: STANDARD OF PROOF

The standard of proof in any contested or uncontested case is the preponderance of credible evidence.

Section 409: CHANGE OF RESIDENCE FOR ATHLETIC PURPOSES

(a) TIME RESTRICTION. A student who changes his school district or attendance zone for athletic purposes may not participate in a League contest until he has resided for at least one year in the district or attendance zone to which he moved. The district executive committee for the district into which he moved shall determine when he becomes eligible.

(b) RECRUITING. An individual is presumed to have changed his school district for athletic purposes if he was recruited.

(c) PARENT FORMS. An individual is presumed to have changed his school district for athletic purposes until his parents change their residence to a new district or attendance zone, the superintendent, principal and coach sign a statement that he was not recruited by the new school and that he did not change districts or attendance zones for athletic purposes, and the parents sign a sworn statement before a school administrator that they

reside in the new district or attendance zone and the that the change was not made for their child's athletic purposes.

(d) NEGATIVE PRESUMPTION. An individual is presumed not to have changed his school district for athletic purposes if:

(1) he did not represent his former school in a League athletic contest while he was in the ninth or higher grade,

(2) he changed school districts or attendance zones because the school district or attendance zone line was changed by the school board or other appropriate authority or,

(3) he transferred from a high school within a school district to the district's vocational high or a magnet school if he transferred during the first year that he had an opportunity to do so.